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13 09-27957

14 **IN THE UNITED STATES BANKRUPTCY COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 IN RE:

No. 2:09-bk-22874-RTBP

17 IN RE:

Chapter 13

18 Carl Joseph Braunagel
19 Debtor.

ANSWER TO COMPLAINT FOR
VIOLATION OF CONFIRMATION
ORDER AND AUTOMATIC STAY

20 Carl Joseph Braunagel, Debtor; Office of the US
21 Trustee, Trustee.

Adversary No.: 2:10-ap-02289-RTB

22 Plaintiff,

23 vs.

24 Bank of America, et al.

25 Defendant.

26 Everhome Mortgage Company, as servicer for R.G. Premier Bank of Puerto Rico, a secured
creditor, by its attorneys, TIFFANY & BOSCO, P.A., hereby admits, denies, and affirmatively
alleges as follows:

I.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph I of the Complaint.

II.

Defendant admits the allegations contained in Paragraph II of the Complaint.

III.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph III of the Complaint.

IV.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph IV of the Complaint.

V.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph V of the Complaint.

VI.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph VI of the Complaint.

VII.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph VII of the Complaint.

VIII.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph VIII of the Complaint.

IX.

Upon information and belief, Everhome Mortgage Company is the servicer of the loan for R.G. Premier Bank of Puerto Rico, who is the current lien holder.

X.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph X of the Complaint.

XI.

Defendant denies the allegations contained in Paragraph XI of the Complaint.

XII.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph XII of the Complaint.

XIII.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph XIII of the Complaint.

XIV.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph XIV of the Complaint.

COUNT I – VIOLATION OF AUTOMATIC STAY

XV.

Defendant reasserts and realleges all admissions, denials and allegations set forth in response to Paragraphs I – XIV of Plaintiff's Complaint as set forth and incorporated herein by reference.

XVI.

No answer is required in response to Paragraph XVI of Plaintiff's Complaint in that it does not set forth any facts, but instead attempts to make statement of law. Defendant will defer to and rely upon the Court for a determination of legal principles application to the claims raised in this case.

XVII.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph XVII of the Complaint.

XVIII.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph XVIII of the Complaint.

COUNT TWO – VIOLATION OF CONFIRMATION ORDER

XIX.

Defendant reasserts and realleges all admissions, denials and allegations set forth in response to Paragraphs I – XVII of Plaintiff's Complaint as set forth and incorporated herein by reference.

XX.

Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph XX of the Complaint.

XXI.

No answer is required in response to Paragraph XXI of Plaintiff's Complaint in that it does not set forth any facts, but instead attempts to make statement of law. Defendant will defer to and

1 rely upon the Court for a determination of legal principles application to the claims raised in this
2 case.

3 **COUNT THREE – BREACH OF CONTRACT**

4 **XXII.**

5 Defendant reasserts and realleges all admissions, denials and allegations set forth in
6 response to Paragraphs I – XXI of Plaintiff’s Complaint as set forth and incorporated herein by
7 reference.
8

9 **XXIII.**

10 No answer is required in response to Paragraph XXIII of Plaintiff’s Complaint in that it does
11 not set forth any facts, but instead attempts to make statement of law. Defendant will defer to and
12 rely upon the Court for a determination of legal principles application to the claims raised in this
13 case.
14

15 **XXIV.**

16 No answer is required in response to Paragraph XXIV of Plaintiff’s Complaint in that it does
17 not set forth any facts, but instead attempts to make statement of law. Defendant will defer to and
18 rely upon the Court for a determination of legal principles application to the claims raised in this
19 case.
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WHEREAS, Defendant respectfully requests that the Court enter judgment in favor of Defendant and against Debtor as follows:

1. Denying any and all relief requested by Debtor;
3. Awarding attorneys fees and costs as may be permissible under the law;
4. Granting any further relief to which Defendant is entitled under the law.

DATED this 11th day of January, 2011.

Respectfully submitted,

TIFFANY & BOSCO, P.A.

BY /s/ MSB # 010167

Mark S. Bosco

Leonard J. McDonald

Attorneys for Secured Creditor

Copy of the foregoing was
mailed this 11th day of January, 2011.

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17 By: /s/ Heidi S. Nelson
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